REMARKS

In response to the Office Action mailed March 11, 2009, Applicant respectfully requests reconsideration of the subject application in view of the present amendment and remarks filed herewith.

In the Claims

Claims 1-13 have been examined and stand rejected in the present Office Action. Applicant is amending claims 1-3, 5, 6, and 9-12; and adding new claims 14-16. Applicant respectfully submits that no new matter has been added by the claims amendments or in the newly added claims; support for the amendments and new claims presented herein is provided throughout the original application as filed, including at least paragraphs [0030]-[0041] as found on pages 5-8.

Applicant has amended claims herein solely to expedite prosecution of this application. In doing so, Applicant does not dedicate the subject matter of the amended claims, as originally filed or as previously pending, to the public, and does not acquiesce to the Examiner's reason(s) offered in support of the rejections of the amended claims or any claim(s) that depend therefrom. Applicant also reserves the right to seek patent protection for claims similar or identical to the amended claims, as filed or previously pending, in one or more subsequently filed, related applications.

Interview with Examiner

The Applicant thanks the Examiner for the courtesies extended to Applicant's attorney in a May 21, 2009 telephone interview, during which the differences between the present invention and the references of record were discussed. No agreement as to the claims was reached, but Applicant is submitting this amendment in light of the Examiner's comments.

Rejections Under 35 U.S.C. § 103

Claims 1-13 stand rejected under Section 103(a) as being unpatentable over U.S. Patent No. 5,708,778 to Monot ("Monot"), in view of U.S. Publication 2004/0186689 to Chu ("Chu"). Applicant respectfully traverses this rejection.

Applicant respectfully submits that Monot does not teach or suggest a method of "establishing operation of a local LAPB device" including "receiving an initiator frame for an asynchronous balanced mode of operation directed to said local LAPB device from a remote LAPB device" nor determining, "based upon information contained within said received initiator frame whether said remote LAPB device is operating as a data computing equipment device or a data terminal equipment device" and "if it is determined that said received frame information indicates that said remote LAPB device is operating as a data terminal equipment device, initiating operation of said local LAPB device as a data computing equipment device" and "if it is determined that said received frame information indicates that said remote LAPB device is operating as a data computing equipment device, initiating operation of said local LAPB device as a data terminal equipment device," all as recited in claim 1 as amended.

Monot is directed, generally, to automatically setting parameters for operation of terminal equipment coupled to carrier equipment in a network. (Abstract). Monot teaches a "series of probes and answers to iteratively restrict the current set of potential values for a parameter...until a correct value of the parameter can be determined....." (Column 2, lines 31-35). Once a correct parameter value has been obtained, the terminal device is set accordingly. (Column 2, lines 35-36). Monot describes how to modify parameters for an _existing_ connection between _existing_ DTE and DCE devices. Monot, however, does not disclose or suggest that "if it is determined that said received frame information indicates that said remote LAPB device is operating as a data terminal equipment device, initiating operation of said local LAPB device as a data computing equipment device" nor "if it is determined that said received frame information indicates that said remote LAPB device is operating as a data computing equipment device, initiating operation of said local LAPB device as a data terminal equipment device," as recited in claim 1, as amended.

Applicant submits that Chu does not remedy the deficiencies of Monot. Specifically, Chu does not teach or suggest using "received frame information," as recited in claim 1, as amended, to initiate operation of a device as either a DTE device if a DCE device is detected or as a DCE device if a DTE device is detected.

Chu is directed to a method of detecting whether a DTE device or a DCE device is connected through an RS232 port. (Abstract). According to Chu's definition of the RS232 at Column 1, lines 21-26:

> a set of signals are defined for the serial RS232 port. The important signals in the present context are DTR (Date Terminal Ready) asserted by the console; DSR (Data Set Ready) asserted by the modem in answer to DTR; RTS (Request to Send) asserted by the sender; and, CTS (Clear to Send) asserted by receiver in answer to RTS.

In Chu, a network device 10 includes an RS232 serial port 12 that can be coupled to either a DTE device such as a console or a DCE device such as a modem. (Column 3, lines 11-25, Fig. 1). Chu looks to changes in the DSR and CTS signals due to connection or disconnection of an RS232 cable to generate an interrupt. (Column 3, lines 29-38.) Depending on the state of the DSR and CTS signals, after receipt of the interrupt, Chu will determine what type of device is connected at the other end. (Column 3, lines 38-56). In Chu, however, as presented at Column 3, lines 57-61:

> DSR and CTS are only sampled initially when a device is connected to or disconnected from the RS232 port. If these signals change between the time a device is connected and disconnected no transition in state will occur.

Additionally, in Chu, it is noted at Column 3, line 63 - Column 4, line 4, that:

> If a DTE device is detected as being connected through the serial port 12, then routines for interfacing the device 10 with the console or terminal are executed, however, if a DCE device is detected as being connected through the serial port 12, then the routine for interfacing with the modem are executed.

Chu does not determine the type of device at the other end of a cable based on "received frame information," as recited in claim 1, as amended, as Chu's determination is based on the states of two discrete signals, i.e., the DSR and CTS signals. The combination of Monot and Chu would, therefore, not produce the invention recited in claim 1, as amended, without modifications to Monot and/or Chu that are not taught or suggested in either reference. Additionally, the proposed modification of Monot in accordance with Chu would change Monot's principle of operation since

–8–

the Monot protocol operates over a link that is frame-based and that does not include assertion of dedicated lines such as the DSR and CTS signal lines. ("If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious." See MPEP § 2143.01(VI) citing In re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)). Accordingly, Applicant respectfully submits that the combination of Monot and Chu does not render obvious the subject matter of claim 1, as amended. Applicant respectfully submits that independent claim 1 is allowable over the cited combination of references, as, therefore, are claims 2-4, and new claims 14-16, for at least the reason that they depend either directly or ultimately from allowable claim 1.

Independent claim 5, as amended, is directed to an apparatus for "establishing operation of a local LAPB device capable of being operated as a data computing equipment device or a data terminal equipment device." In view of the arguments submitted above with respect to claim 1, and for at least the reason that the cited combination of references does not teach or suggest "a processing unit" for determining whether "information contained within" a "received frame" is indicative of a "remote LAPB device operating as one of a data computing equipment device and a data terminal equipment device using" data stored in a memory and "providing a configuration signal to said local LAPB device as a function thereof," Applicant submits that claim 5, as amended, is allowable over the cited combination of references, as, therefore, are claims 6-8, for at least the reason that they depend either directly or ultimately from allowable claim 5.

Independent claim 9, as amended, is directed to a method of "establishing operation of a first LAPB device coupled to a second LAPB device in a network, said first LAPB device capable of being operated as a first type of LAPB device or a second type of LAPB device." In view of the arguments submitted above with respect to claim 1, and for at least the reason that the cited combination does not teach or suggest "receiving a first initiator frame from the second LAPB device directed to the first LAPB device" and "evaluating information contained within the received first initiator frame to determine if the second device is operating as one of the first type or the second type of LAPB device," Applicant submits that claim 9 is allowable over the cited

combination of references, as, therefore, are claims 10-13, for at least the reason that they depend either directly or ultimately from allowable claim 9.

In sum, Applicant believes all pending claims are now in condition for allowance and a notice to this effect is earnestly solicited.

The Examiner is encouraged to telephone the undersigned attorney to discuss any matter that would expedite allowance of the present application. If necessary due to the submission of this paper, the Examiner is hereby authorized to charge any fees, or credit any balances, under 37 C.F.R. §§ 1.16 and 1.17 to Deposit Account No. 23-0804.

Respectfully submitted,

GORDON ROULEAU

By: ___/paul d sorkin/_____
Paul D. Sorkin, Reg. No. 39,039
Attorney for Applicant
Customer Number 78637

WEINGARTEN, SCHURGIN,
    GAGNEBIN & LEBOVICI LLP
Ten Post Office Square
Boston, MA 02109
Telephone: (617) 542-2290
Fax: (617) 451-0313

376129.1